

**MEMORANDUM**

**TO:** Members, Utah State Board of Education

**FROM:** Natalie Grange, CPA CFE  
School Finance Director

**DATE:** May 12-13, 2016

**ACTION:** *R277-726 Statewide Online Education Program (Amendment)*

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**Background:**

The growth in the Statewide Online Education Program (SOEP) home and private school tuition program over the past few years has resulted in enrollments in excess of available funding. School Finance staff has prepared three different courses of action to allocate available funding, to ensure that home and private school students have an equal opportunity to participate in the SOEP program. This issue was addressed by the Finance committee in April. Staff was instructed to combine two courses of action into potential modifications to Board rule and bring the revisions before the committee in May.

**Board Strategic Plan:**

This item supports the following imperative(s) and strategies in the Board's Strategic Plan:

- Educational Equity
- System Values

**Action:**

It is proposed that the Finance Committee consider approving R277-726, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-726, as amended, on second reading.

**Contact:** Natalie Grange, School Finance Director, 801-538-7668  
Cory Kanth, SOEP Program Specialist, 801-538-7703  
Scott Jones, Deputy Superintendent of Operations, 801-538-7814

1 **R277. Education, Administration.**

2 **R277-726. Statewide Online Education Program.**

3 **R277-726-1. Authority and Purpose.**

4 (1) This rule is authorized by:

5 (a) Utah Constitution Article X, Section 3, which vests general control and  
6 supervision of public education in the Board;

7 (b) Section 53A-15-1210, which requires the Board to make rules providing  
8 for the administration of statewide assessments to students enrolled in online  
9 courses;

10 (c) Section 53A-15-1213, which requires the Board to make rules that  
11 establish a course credit acknowledgment form and procedures for completing and  
12 submitting the form to the Board; and

13 (d) Subsection 53A-1-401(3), which permits the Board to adopt rules in  
14 accordance with its responsibilities.

15 (2) The purpose of this rule is to:

16 (a) define necessary terms;

17 (b) provide and describe a program registration agreement; and

18 (c) provide other requirements for an LEA, USOE, a parent and a student,  
19 and a provider for program implementation and accountability.

20 **R277-726-2. Definitions.**

21 (1) "Actively participates" means the student actively participates as defined  
22 by the provider.

23 (2) "Course completion" means that a student has completed a course with  
24 a passing grade and the provider has transmitted the grade and credit to the primary  
25 LEA of enrollment.

26 (3)(a) "Course Credit Acknowledgment" or "CCA" means an agreement and  
27 registration record using USOE provided Statewide Online Education Program form.

28 (b) Except as provided in Subsection 53A-15-1208(3)(h), the CCA shall be  
29 signed by the designee of the primary school of enrollment, and the qualified  
30 provider.

31 (4) "Eligible student" means a student enrolled in grades 9-12 in a public

32 school, but does not include a student enrolled in an adult education program.

33 (5) "Enrollment confirmation" means the student initially registered and  
34 actively participated, as defined under Subsection(1).

35 (6)(a) "Executed CCA" means a CCA that has been signed by all parties and  
36 received by USOE.

37 (b) Following enrollment confirmation and participation, USOE directs funds  
38 to the provider, consistent with Sections 53A-15-1206, 53A-15-1206.5, and 53A-15-  
39 1207.

40 (7) "LEA" or "local education agency" for purposes of this rule includes the  
41 Utah Schools for the Deaf and the Blind.

42 (8) "Online course" means a course of instruction offered through the  
43 Statewide Online Education Program.

44 (9) "Online course payment" means the amount withheld from a student's  
45 primary LEA and disbursed to the designated provider following satisfaction of the  
46 requirements of the law, and as directed in Section 53A-15-1207.

47 (10) "Online course provider" or "provider" means:

48 (a) a school district school;

49 (b) a charter school;

50 (c) an LEA program created for the purpose of serving Utah students in  
51 grades 9-12 online; or

52 (d) a program of an institution of higher education described in Subsection  
53 53A-15-1205(3).

54 (11) "Primary LEA of enrollment" means the LEA in which an eligible student  
55 is enrolled for courses other than online courses offered through the Statewide  
56 Online Education Program.

57 (12) "Primary school of enrollment" means:

58 (a) a student's school of record; and

59 (b) the school that maintains the student's cumulative file, enrollment  
60 information, and transcript for purposes of high school graduation.

61 (13) "Resident school" means the district school within whose attendance  
62 boundaries the student's custodial parent or legal guardian resides.

63 (14) "Statewide assessment" means a test or assessment required under

64 Rule R277-404.

65 (15) "Statewide Online Education Program" or "program" means courses  
66 offered to students under Title 53A, Chapter 15, Part 12, Statewide Online Education  
67 Program Act.

68 (16) "USOE course code" means a code for a designated subject matter  
69 course assigned by the Superintendent.

70 (17) "Withdrawal from online course" means that a student withdraws or  
71 ceases participation in an online course as follows:

72 (a) within 20 calendar days of the start date of the course, if the student  
73 enrolls on or before the start date;

74 (b) within 20 calendar days of enrolling in a course, if the student enrolls after  
75 the start date; or

76 (c) within 20 calendar days after the start date of the second .5 credit of a 1.0  
77 credit course; or

78 (d) as the result of a student suspension from an online course following  
79 adequate documented due process by the provider.

80 **R277-726-3. Course Credit Acknowledgment (CCA) Process.**

81 (1) A student, a student's parent, or a provider may initiate a CCA.

82 (2)(a) A counselor designated by a student's primary school of enrollment  
83 shall review the student's CCA to ensure consistency with:

84 (i) graduation requirements;

85 (ii) the student's SEOP;

86 (iii) the student's IEP;

87 (iv) the student's Section 504 plan; or

88 (v) the student's international baccalaureate program.

89 (b) The primary school of enrollment shall return the CCA to the  
90 Superintendent within 72 business hours.

91 (3)(a) A provider-initiated CCA may be sent directly to the Superintendent if  
92 the course is consistent with the student's SEOP.

93 (b) The primary school of enrollment is not required to meet with the student  
94 or parent.

95 (c) The Superintendent shall notify a primary school of enrollment of a  
96 student's enrollment in the program.

97 (4) If a student enrolling in the program has an IEP or a Section 504 plan, the  
98 primary LEA or school of enrollment shall forward the IEP or description of 504  
99 accommodations to the provider within 72 business hours of receiving notice from  
100 the Superintendent that the provider has accepted the enrollment request.

101 (5) The Superintendent shall develop and administer procedures for  
102 facilitation of a CCA that informs all appropriate parties.

103 **R277-726-4. Eligible Student and Parent Rights and Responsibilities.**

104 (1)(a) An eligible student may register for program credits consistent with  
105 Section 53A-15-1204.

106 (b) Notwithstanding Subsection (1)(a), a student's primary LEA of enrollment  
107 or the Board may allow an eligible student to enroll in additional online courses  
108 consistent with Section 53A-15-1204 with documentation from the LEA.

109 (2) A student enrolled in a program course may earn no more credits in a  
110 year than the number of credits a student may earn by taking a full course load  
111 during the regular school day in the student's primary school of enrollment.

112 (3) An eligible student may register for more than the maximum number of  
113 credits described in Subsection 53A-15-1204(2) if:

114 (a) the student's SEOP indicates that the student intends to complete high  
115 school graduation requirements and exit high school before the rest of the student's  
116 high school cohort; and

117 (b) the student's schedule demonstrates progress toward early graduation.

118 (4)(a) An eligible student is expected to complete courses in which the student  
119 enrolls in a timely manner consistent with Section 53A-15-1206.

120 (b) If a student changes the student's enrollment for any reason, it is the  
121 student's or student's parent's responsibility to notify the provider immediately.

122 (5) A student should enroll in online courses, or declare an intention to enroll,  
123 during the high school course registration period designated by the primary LEA of  
124 enrollment for regular course registration.

125 (6) A student may alter a course schedule by dropping a traditional course

126 and adding an online course in accordance with the primary school of enrollment's  
127 same established deadline for dropping and adding traditional courses.

128 (7)(a) Notwithstanding Subsection (6), an underenrolled student may enroll  
129 in an online course at any time during a calendar year.

130 (b) If an underenrolled student enrolls in an online course as described in  
131 Subsection (7)(a), the primary school of enrollment may immediately claim the  
132 student for the adjusted portion of enrollment.

133 **R277-726-5. LEA Requirements and Responsibilities.**

134 (1) A primary school of enrollment shall facilitate student enrollment with any  
135 and all eligible providers selected by an eligible student consistent with course credit  
136 limits.

137 (2) A primary school of enrollment or a provider LEA shall use the CCA form,  
138 records, and processes provided by the Superintendent for the program.

139 (3) A primary school or LEA of enrollment shall provide information about  
140 available online courses and programs:

141 (a) in registration materials;

142 (b) on the LEA's website; and

143 (c) on the school's website.

144 (4) A primary school of enrollment shall include a student's online courses in  
145 the student's enrollment records and, upon course completion, include online course  
146 grades and credits on the student's transcripts.

147 **R277-726-6. Superintendent Requirements and Responsibilities.**

148 (1) The Superintendent shall develop and provide a website for the program  
149 that provides information required under Section 53A-15-1212 and other information  
150 as determined by the Board.

151 (2) The Superintendent shall direct a provider to administer statewide  
152 assessments consistent with Rule R277-404 for identified courses using LEA-  
153 adopted and state-approved assessments.

154 (3)(a) The Board may determine space availability standards and appropriate  
155 course load standards for online courses consistent with Subsections 53A-15-

156 1006(2) and 53A-15-1208(3)(d).

157 (b) Course load standards may differ based on subject matter and differing  
158 accreditation standards.

159 (4) The Board shall withhold funds from a primary LEA of enrollment and  
160 make payments to a provider consistent with Sections 53A-15-1206, 53A-15-1206.5,  
161 and 53A-15-1207.

162 (5) The Board may refuse to provide funds under a CCA if the Board finds  
163 that information has been submitted fraudulently or in violation of the law or Board  
164 rule by any of the parties to a CCA.

165 (6) The Superintendent shall receive and investigate complaints, and impose  
166 sanctions, if appropriate, regarding course integrity, financial mismanagement,  
167 enrollment fraud or inaccuracy, or violations of the law or this rule specific to the  
168 requirements and provisions of the program.

169 (7) If a Board investigation finds that a provider has violated the IDEA or  
170 Section 504 provisions for a student taking online courses, the provider shall  
171 compensate the student's primary LEA of enrollment for all costs related to  
172 compliance.

173 (8)(a) The Superintendent may audit, at the Board's sole discretion, an LEA's  
174 or program participant's compliance with any requirement of state or federal law or  
175 Board rule under the program.

176 (b) All participants shall provide timely access to all records, student  
177 information, financial data or other information requested by the Board, the Board's  
178 auditors, or the Superintendent upon request.

179 (9) The Board may withhold funds from a program participant for the  
180 participant's failure to comply with a reasonable request for records or information.

181 (10) Program records are available to the public subject to the Government  
182 Records Access and Management Act, (GRAMA).

183 (11) The Superintendent shall withhold online course payment from a primary  
184 LEA of enrollment and payments to an eligible provider at the nearest monthly  
185 transfer of funds, subject to verification of information, in an amount consistent with,  
186 and at the time a provider qualifies to receive payment, under Subsection 53A-15-  
187 1206(4).

188 (12) The Superintendent shall pay a provider consistent with Minimum School  
189 Program funding transfer schedules.

190 (13)(a) The Superintendent may make decisions on questions or issues  
191 unresolved by Title 53A, Chapter 15, Part 12, Statewide Online Program Act or this  
192 rule on a case-by-case basis.

193 (b) The Superintendent shall report decisions described in Subsection (13)(a)  
194 to the Board consistent with the purposes of the law and this rule.

195 **R277-726-7. Provider Requirements and Responsibilities.**

196 (1)(a) A provider shall administer statewide assessments as directed by the  
197 Superintendent, including proctoring statewide assessments, consistent with Section  
198 53A-15-1210 and Rule R277-404.

199 (b) A provider shall pay administrative and proctoring costs for all statewide  
200 assessments.

201 (2) A provider shall provide a parent or a student with email and telephone  
202 contacts for the provider during regular business hours in order to facilitate parent  
203 information.

204 (3) A provider and any third party working with a provider shall, for all eligible  
205 students, satisfy all Board requirements for:

206 (a) consistency with course standards;

207 (b) criminal background checks for provider employees;

208 (c) documentation of student enrollment and participation; and

209 (d) compliance with:

210 (i) the IDEA;

211 (ii) Section 504; and

212 (iii) requirements for ELL students.

213 (4) A provider shall receive payments for a student properly enrolled in the  
214 program from the Superintendent consistent with:

215 (a) Board procedures;

216 (b) Board timelines; and

217 (c) Sections 53A-15-1206, 53A-15-1206.5, 53A-15-1207, and 53A-15-1208.

218 (5)(a) A provider may charge a fee consistent with other secondary schools.

219 (b) If a provider intends to charge a fee, the provider:  
220 (i) shall notify the primary school of enrollment with whom the provider has the  
221 CCA of the purpose for fees and amounts of fees;  
222 (ii) provide timely notice to a parent of required fees and fee waiver  
223 opportunities;  
224 (iii) post fees on the provider website; and  
225 (iv) shall be responsible for fee waivers for an eligible student, including all  
226 materials for a student designated fee waiver eligible by a student's primary school  
227 of enrollment.

228 (6) A provider shall maintain a student's records and comply with the federal  
229 Family Educational Rights and Privacy Act, Title 53A, Chapter 13, Part 3, Utah  
230 Family Educational Rights and Privacy Act, and Rule R277-487, including protecting  
231 the confidentiality of a student's records and providing a parent and an eligible  
232 student access to records.

233 (7) Except as provided in Subsection R277-726-9, a provider shall submit a  
234 student's credit and grade to the Superintendent, primary school of enrollment, and  
235 the student's parent no later than:

236 (a) 30 days after a student satisfactorily completes an online semester or  
237 quarter course; or

238 (b) June 30 of the school year.

239 (8) A provider may not withhold a student's credits, grades, or transcripts from  
240 the student, parent, or the student's school of enrollment for any reason.

241 (9)(a) If a provider seeks to suspend a student from an online course for  
242 disciplinary reasons, the provider is responsible for all student due process  
243 procedures, including the IDEA and Section 504 of the Rehabilitation Act of 1973.

244 (b) A provider shall notify the Superintendent of a student's withdrawal, if the  
245 student is suspended for more than 10 days.

246 (10)(a) A provider shall provide to the Superintendent a list of course options  
247 using USOE-provided course codes.

248 (b) All program courses shall be coded as semester or quarter courses.

249 (c) A provider shall update the provider's course offerings in January and  
250 August annually.

251 (11) A provider shall serve a student on a first-come-first-served basis who  
252 desires to take courses and who is designated eligible by a primary school of  
253 enrollment if desired courses have space available.

254 (12) A provider shall provide all records maintained as part of a public online  
255 school or program, including:

256 (a) financial and enrollment records; and

257 (b) information for accountability and audit purposes upon request by the  
258 Superintendent and the provider's external auditors.

259 (13) A provider shall maintain documentation of student work, including dates  
260 of submission, for program audit purposes.

261 (14) A provider is responsible for complete and timely submissions of record  
262 changes to executed CCAs and submission of other reports and records as required  
263 by the Superintendent.

264 (15) A provider shall inform a student and the student's parent of expectations  
265 for active participation in course work.

266 (16) An LEA may participate in the program as a provider by offering a school  
267 or program to a Utah student in grades 9-12 who is not a resident student of the LEA  
268 consistent with Section 53A-15-1205(2).

269 (17) A program school or program shall:

270 (a) be accredited by the accrediting entity adopted by the Board consistent  
271 with Rule R277-410;

272 (b) have a designated administrator who meets the requirements of Section  
273 53A-6-110;

274 (c) ensure that a student who qualifies for a fee waiver shall receive all  
275 services offered by and through the public schools consistent with Section 53A-12-  
276 103 and Rule R277-407;

277 (d) maintain student records consistent with:

278 (i) the federal Family Educational Rights and Privacy Act, 20 U.S.C. Sec  
279 1232g and 34 CFR Part 99; and

280 (ii) Rule R277-487; and

281 (e) shall offer course work:

282 (i) aligned with Utah Core standards;

283 (ii) in accordance with program requirements; and  
284 (iii) in accordance with the provisions of Rules R277-700 and R277-404.

285 (18) An LEA that offers an online program or school as a provider under the  
286 program:

287 (a) shall employ only licensed Utah educators as teachers;

288 (b) may not employ an individual whose educator license has been  
289 suspended or revoked;

290 (c) shall require all employees to meet requirements of Sections 53A-15-1503  
291 and 53A-15-1504 prior to the provider offering services to a student;

292 (d) may only employ teachers who meet the requirements of Rule R277-510,  
293 Educator Licensing - Highly Qualified Assignment;

294 (e) shall agree to administer and have the capacity to carry out statewide  
295 assessments, including proctoring statewide assessments, consistent with Section  
296 53A-15-1210(2) and Rule R277-404;

297 (f) in accordance with Section R277-726-8, shall provide services to a student  
298 consistent with requirements of the IDEA, Section 504, and Title VI of the Civil  
299 Rights Act of 1964 for English Language Learners (ELL);

300 (g) shall maintain copies of all CCAs for audit purposes; and

301 (h) shall agree that funds shall be withheld by the Superintendent consistent  
302 with Sections 53A-15-1206 and 53A-15-1206.5.

303 (19) A provider shall cooperate with the Superintendent in providing timely  
304 documentation of student participation, enrollment, and other additional data  
305 consistent with Board directives and procedures and as requested.

306 (20) A provider shall post all required information online on the provider's  
307 individual website including required assessment and accountability information.

308 **R277-726-8. Services to Students with Disabilities Participating in the Program.**

309 (1)(a) If a student requests services related to a Section 504 accommodation  
310 under the Americans with Disabilities Act, a provider shall:

311 (i) except as provided in Subsection (1)(b), prepare a Section 504 plan for the  
312 student; and

313 (ii) provide the services or accommodations to the student in accordance with

314 the student's Section 504 plan.

315 (b) An LEA of enrollment shall provide a Section 504 plan of a student  
316 described in Subsection (1)(a) to a provider within 72 business hours if:

317 (i) the student is enrolled in a primary LEA of enrollment; and

318 (ii) the primary LEA of enrollment has a current Section 504 plan for the  
319 student.

320 (2) For a student enrolled in a primary LEA of enrollment, if a student  
321 participating in the program qualifies to receive services under the IDEA:

322 (a) the student's primary LEA of enrollment shall:

323 (i) prepare an IEP for the student in accordance with the timelines required  
324 by the IDEA;

325 (ii) provide the IEP described in Subsection (2)(a)(i) to the provider within 72  
326 business hours of completion of the student's IEP; and

327 (iii) continue to claim the student in the primary LEA of enrollment's  
328 membership; and

329 (b) the provider shall provide special education services to the student in  
330 accordance with the student's IEP described in Subsection (2)(a)(i).

331 (3) If a home or private school student participating in the program qualifies  
332 to receive special education services under the IDEA, the home or private school  
333 student:

334 (a) may waive the student's right to receive the special education services; or

335 (b) subject to the requirements of Subsection (4), enroll in the home or private  
336 school student's resident school for the purpose of receiving special education  
337 services.

338 (4) If a home or private school student requests to receive special education  
339 services as described in Subsection (3)(b):

340 (a) the home or private school student's resident school shall:

341 (i) prepare an IEP for the student in accordance with the timelines required  
342 by the IDEA;

343 (ii) provide the IEP described in Subsection (4)(a)(i) to the provider within 72  
344 business hours of completion of the student's IEP; and

345 (iii) claim the student in the resident school's membership; and

346 (b) the provider shall provide special education services to the student in  
347 accordance with the student's IEP described in Subsection (4)(a)(i).

348 **R277-726-9. Home and Private School Appropriation.**

349 (1) The Superintendent shall allocate the annual appropriation for home and  
350 private school tuition, along with any carryover or unobligated funds, as follows:

351 (a) 50% of the total appropriation for home school students; and

352 (b) 50% of the total appropriation for private school students.

353 (2) The Superintendent shall receive and accept enrollment requests on a first  
354 come, first served basis until all available funds are obligated.

355 (3) If home school or private school student funds remain by March 1, the  
356 Superintendent may release the funds for any pending enrollment requests.

357 **R277-726-[9]10. Other Information.**

358 (1) A primary school of enrollment shall set reasonable timelines and  
359 standards.

360 (2) A provider shall adhere to timelines and standards described in  
361 Subsection (1) for student grades and enrollment in online courses for purposes of:

362 (a) school awards and honors;

363 (b) Utah High School Activities Association participation; and

364 (c) high school graduation.

365 **KEY: statewide online education program**

366 **Date of Enactment or Last Substantive Amendment: [~~February 8,~~]2016**

367 **Notice of Continuation: December 15, 2015**

368 **authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-15-1210;**

369 **53A-15-1213; 53A-1-401(3)**